

By: Hancock
(Morrison)

S.B. No. 839

Substitute the following for S.B. No. 839:

By: Morrison

C.S.S.B. No. 839

A BILL TO BE ENTITLED

AN ACT

relating to the provision of insurance coverage for certain portable electronic devices.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 551, Insurance Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. PORTABLE ELECTRONICS INSURANCE

Sec. 551.201. DEFINITIONS. In this subchapter, "customer," "portable electronic devices," and "vendor" have the meanings assigned by Section 4055.251.

Sec. 551.202. REQUIRED NOTICE OF TERMINATION OR CHANGE TO POLICY. (a) Except as otherwise provided by this subchapter, an insurer may terminate or change the terms and conditions of a policy of portable electronics insurance only after notice to the master or group policyholder and each enrolled customer. Notice under this section must be provided not later than the 30th day before the date of the termination or change.

(b) If the insurer changes the terms and conditions of the policy, the insurer shall:

(1) provide to the master or group policyholder a revised policy or endorsement; and

(2) provide to each enrolled customer:

(A) a revised certificate, revised endorsement, updated brochure, or other document indicating that a change in the

1 terms and conditions has occurred;

2 (B) a summary of the material changes; and

3 (C) a disclosure, in a font that is capitalized,
4 boldfaced, italicized, or underlined or is larger than or set off
5 from the remainder of the document, that enrollment in coverage is
6 optional and that provides information on how to discontinue
7 enrollment.

8 Sec. 551.203. TERMINATION FOR FRAUD OR MISREPRESENTATION.

9 (a) An insurer may terminate the coverage of an enrolled customer
10 under a portable electronics insurance policy for fraud or material
11 misrepresentation in obtaining coverage or in the presentation of a
12 claim under the coverage.

13 (b) Termination of coverage under this section may not be
14 effective before the 15th day after the date the insurer provides
15 the customer notice of the termination.

16 Sec. 551.204. TERMINATION WITHOUT NOTICE. (a) An insurer
17 may terminate the coverage of an enrolled customer under a portable
18 electronics insurance policy without notice:

19 (1) for nonpayment of premium;

20 (2) if the enrolled customer ceases to have an active
21 service with the vendor of portable electronics; or

22 (3) if the enrolled customer exhausts the aggregate
23 limit of liability, if any, under the terms of the portable
24 electronics insurance policy.

25 (b) If a portable electronics insurance policy is
26 terminated under Subsection (a)(3), the insurer must send notice of
27 termination to the enrolled customer not later than the 30th day

1 after the date of exhaustion of the limit. If the notice is not
2 timely sent, the insurer shall continue the customer's coverage,
3 and the aggregate limit of liability is waived, until the insurer
4 sends the notice of termination to the enrolled customer.

5 Sec. 551.205. TERMINATION BY POLICYHOLDER. A master or
6 group policyholder who terminates a portable electronics insurance
7 policy shall provide notice to each enrolled customer advising the
8 enrolled customer of the termination of the policy and the
9 effective date of termination. The notice must be provided to the
10 enrolled customer not later than the 30th day before the date the
11 termination becomes effective.

12 Sec. 551.206. FORM OF NOTICE OR CORRESPONDENCE. (a) A
13 notice required by this subchapter, or another notice or
14 correspondence with respect to a portable electronics insurance
15 policy that is required by law, must be:

- 16 (1) in writing; and
17 (2) sent within the notice period, if any, specified
18 by the statute or rule requiring the notice or correspondence.

19 (b) Notwithstanding any other law, the notice or
20 correspondence may be sent by mail or by electronic means.

21 (c) If the notice or correspondence is mailed:

- 22 (1) it must be sent to the master or group policyholder
23 at the policyholder's mailing address specified for this purpose
24 and to each affected enrolled customer's last known mailing address
25 on file with the insurer; and

- 26 (2) the insurer or master or group policyholder shall
27 maintain proof of mailing in a form authorized or accepted by the

1 United States Postal Service or other commercial mail delivery
2 service.

3 (d) If the notice or correspondence is sent by electronic
4 means:

5 (1) it must be sent to the master or group policyholder
6 at the policyholder's e-mail address specified for this purpose and
7 to each affected enrolled customer's last known e-mail address as
8 provided by the customer to the insurer or master or group
9 policyholder; and

10 (2) the insurer or master or group policyholder shall
11 maintain proof that the notice or correspondence was sent.

12 (e) For purposes of Subsection (d), an enrolled customer's
13 provision of an e-mail address to the insurer or master or group
14 policyholder is considered consent to receive notices and
15 correspondence by electronic means.

16 (f) A notice or correspondence described by this section may
17 be sent on behalf of an insurer or master or group policyholder by a
18 licensed agent or agency appointed by the insurer.

19 SECTION 2. Section 4055.253, Insurance Code, is amended to
20 read as follows:

21 Sec. 4055.253. AUTHORITY OF VENDOR OF PORTABLE ELECTRONIC
22 DEVICES. (a) A vendor licensed under this subchapter and the
23 vendor's employee and authorized representative may act as an agent
24 for an authorized insurer in connection with the sale and use of
25 portable electronic devices and related services only with respect
26 to:

27 (1) insurance coverage provided to customers that

1 covers portable electronic devices against one or more of the
2 following:

- 3 (A) loss;
- 4 (B) theft;
- 5 (C) mechanical failure;
- 6 (D) malfunction;
- 7 (E) damage; or
- 8 (F) other applicable perils; or

9 (2) the provision of any other coverage the
10 commissioner approves as meaningful and appropriate in connection
11 with the use of portable electronic devices or related services.

12 (b) A vendor licensed under this subchapter may bill a
13 customer for, and collect from a customer payment for, insurance
14 coverage provided to the customer under this subchapter.

15 (c) An insurer issuing a policy to a licensed vendor is
16 considered to have received a premium from a vendor's customer
17 enrolled in coverage on the customer's payment of the premium to the
18 vendor.

19 SECTION 3. Subchapter F, Chapter 4055, Insurance Code, is
20 amended by adding Section 4055.256 to read as follows:

21 Sec. 4055.256. REQUIRED DISCLOSURES. (a) A licensed
22 vendor must separately itemize on a customer's bill any charge to
23 the customer for insurance coverage provided under this subchapter
24 that is not included in the cost associated with the purchase or
25 lease of the covered portable electronic device or related
26 services.

27 (b) If insurance coverage provided under this subchapter is

1 included in the cost associated with the purchase or lease of a
2 covered portable electronic device or related services, a licensed
3 vendor shall, at the time of the purchase or lease, clearly and
4 conspicuously disclose the inclusion of that coverage to the
5 customer.

6 SECTION 4. This Act takes effect September 1, 2013.